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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,159	09/23/2003	Fernando R. Moncho	12158/5	2830

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER	
HORTON, YVONNE MICHELE	

ART UNIT	PAPER NUMBER
3635	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/670,159	MONCHO ET AL.	
	Examiner	Art Unit	
	Yvonne M. Horton	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *28-33* is/are allowed.

6)☒ Claim(s) *1-23,25-27,34-41* is/are rejected.

7)☒ Claim(s) *24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

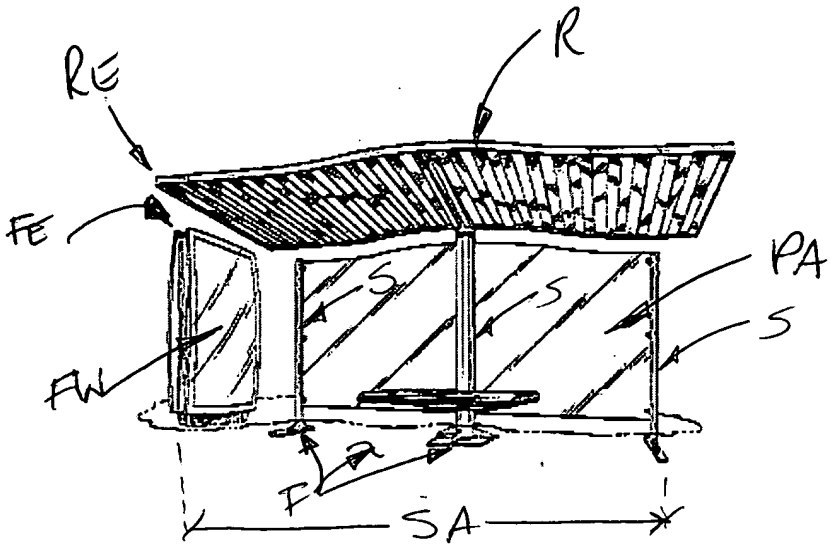
1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

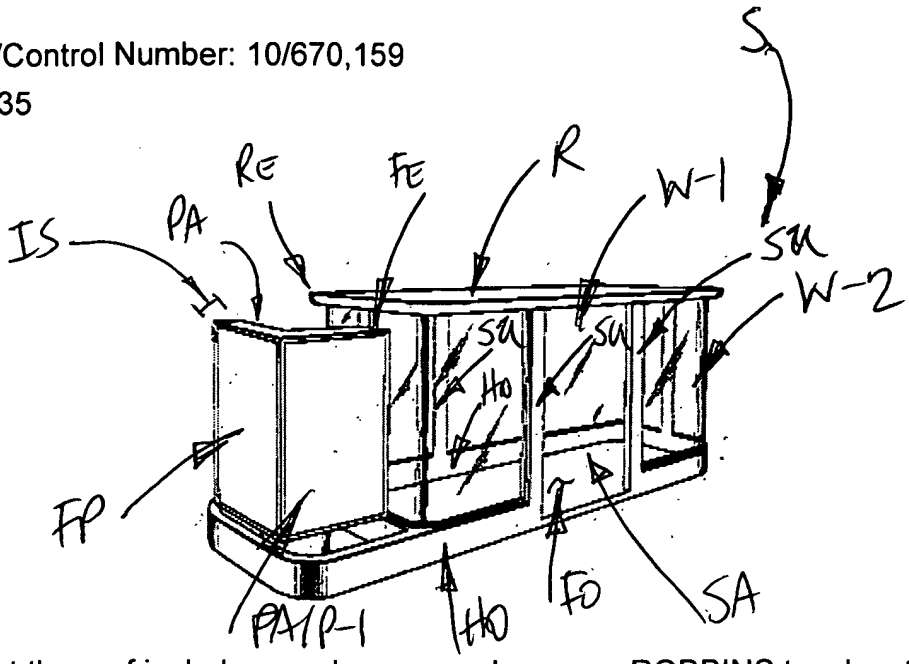
Claims 16-19,25 and 26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Design Patent #438,635 to Da COSTA. Da COSTA discloses a shelter including a plurality of supports (S) secured to, as at (PL) and upstanding from a fixed foundation (F) and arranged to partially surround a spatial area (SA) (defined by the freestanding wall (FW) and the panels (PA)); a roof (R) having a first edge (RE) and mounted to the supports (S) such that the roof (R) is positioned over the spatial area (SA); and at least one freestanding wall structure (FW) substantially unconnected to the roof (R) and wall (W); wherein, the freestanding wall structure (FW) has a first edge (FE) that is parallel to the a first edge (RE) of the roof (R). Regarding claim 17, it is inherent that since the freestanding wall (FW) is not connected to the wall structure (W), roof (R), or supports (S) and that there is a separation therebetween, no vibration will be transferred. In reference to claim 18, the at least one wall structure (W) is secured to the at least one supports (S) and extends partially between the roof (R) and the foundation (F). In reference to claim 19, the wall (W) also extends between at least two supports (S). Regarding claim 25, the freestanding wall structure (W) is perpendicular to the at least one wall (W). In reference to claim 26, the freestanding wall (FW) extends partially beneath the roof (R).



Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Design Patent #250,836 to LAHAIE in view of US Patent #5,107,637 to ROBBINS. LAHAIE discloses a shelter (S) including first (W-1) and second (W-2) walls extending at right angles to one another and being fixed to a plurality of upstanding supports (SU) such that the supports (SU) have at least one roof (R) affixed thereto; wherein the walls (W-1,W-2) provide a space (being the interior of the shelter) between the roof and the foundation to allow air to flow therethrough. The shelter of LAHAIE also includes a third wall (FP) extending parallel to both the first (W-1) and second (W-2) wherein the third wall (FP) is supported freely from the supports (SU), the first (W-1) and second (W-2) walls, and the roof (R). LAHAIE discloses the basic claimed shelter except for specifically detailing that the freestanding wall defines advertisement and except for



detailing that the roof includes a solar-powered means. ROBBINS teaches that it is known in the art to provide the panel of a shelter (10) with a panel (18) that displays advertising material therein, column 2, lines 66-69, and it is known in the art to provide a shelter (10) with a solar-powered (14a-d) roof (12). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shelter of LAHAIE with the advertising panel and solar-powered roof of ROBBINS in order to promote businesses and materials in the industry while also providing a person seeking shelter therein with a form of entertainment of reading and to provide the shelter with a high level of visibility during day and evening hours without the expense of placing an maintaining electrical wiring thereto. Being able to read an advertisement while waiting for the bus, if the shelter is used at a bus stop, would appear to lessen your wait time because your mind will be preoccupied. Also, advertisements will give businesses another way letting the public know what services hey may have to offer. Further, digging the ground and laying underground cabling in order to provide a structure with electricity or lighting can be very expensive. Solar panels are another yet less expensive way of providing a structure with lighting. Solar panels are less

expensive overall due to the fact that there is less manpower required in assembling whereas underground cabling required construction workers to dig the ground, electricians to lay and install the cables, maintenance person to keep up the cabling. Regarding claim 2, the third wall (FP) extends at least partially beneath the roof (R), see figures 4 and 6.

Claims 3-7,10-15 and 34-41 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Design Patent #250,836 to LAHAIE in view of Us Patent #5,107,637 to ROBBINS. In reference to claims 3,34 and 38, LAHAIE discloses at least a partial protection shelter (S) including a roof (R) and at least one wall (W-1,W-2) supported by a plurality posts (SU) upstanding from and obviously secured to a foundation (FO) wherein the posts (SU) partially surround a spatial area (SA) of wall structures (W-1,W-2) anchored securely in a foundation (FO) and a freestanding panel (FP)

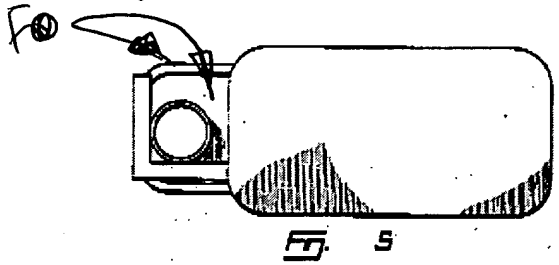


FIG. 5

unattached and structurally separate from the posts (SU), walls (W-1,W-2), and roof (R), see above; wherein the freestanding panel (FP) has a side edge (SE) aligned with at least one post (SU). LAHAIE discloses the basic claimed shelter except for explicitly disclosing whether the panel displays advertising material. ROBBINS teaches that it is known in the art to provide the panel of a shelter (10) with a panel (18) that displays advertising material, column 2, lines 66-69. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shelter of

LAHAIE with advertising, as taught by ROBBINS, in order to promote businesses and materials in the industry while also providing a person seeking shelter therein with a form of entertainment of reading. Being able to read an advertisement while waiting for the bus, if the shelter is used at a bus stop, would appear to lessen your wait time because your mind will be preoccupied. Also, advertisements will give businesses another way letting the public know what services hey may have to offer. In reference to claims 4 and 36, ROBBINS also teaches the use of a powered light source (32a-c). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the structure of LAHAIE with the powered light source of ROBBINS, in order to further light the interior of the shelter. In reference to claim 5, does not disclose the use of a display panel defining spaced apart panels. ROBBINS teaches that it is known in the art to provide a display panel (18) with an interior space (IS) defined by a pair of spaced panels (18,28) wherein the light source (32a-c) is disposed therebetween. As mentioned earlier, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shelter of LAHAIE with advertising, as taught by ROBBINS, in order to promote businesses and materials in the industry while also providing a person seeking shelter therein with a form of entertainment of reading. Thus, it would have been obvious to one having ordinary skill in the art to provide the shelter of LAHAIE with the bench of ROBBINS in order to allow the user a place to sit while waiting for a bus (is used as bus shelter), and to relax and enjoy reading the advertisement. Regarding claims 6,37,39 and 40, LAHAIE does not disclose the use of solar roof panels. ROBBINS, however, teaches

that it is known in the art to form the roof of a shelter with a plurality of solar panels (14a-d) having circuitry (40) and power (46). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the roof of LAHAIE with the solar panels of ROBBINS in order to provide the shelter with a high level of visibility during day and evening ours without the expense of placing an maintaining electrical wiring thereto. Digging the ground and laying underground cabling in order to provide a structure with electricity or lighting can be very expensive. Solar panels are another yet less expensive way of providing a structure with lighting. Solar panels are less expensive overall due to the fact that there is less manpower required in assembling whereas underground cabling required construction workers to dig the ground, electricians to lay and install the cables, and maintenance of the cabling. In reference to claim 7, the shelter (S) of LAHAIE also includes horizontal supports (HO) that extend between two of the posts (SU); wherein the horizontal supports (HO) also aid in supporting the walls (W-1,W-2). Further regarding claim 3 and in regards to claim 41, the walls (W) of include a plurality of vertical upstanding panels (W) and a plurality of upstanding supports (US) that inherently provides at least partial protection from the wind. In reference to claim 10 and 13, portion (P-1) of the freestanding panel (FP) extends perpendicular to the walls (W-2) and parallel to walls (W-1). Regarding claims 11 and 35, the freestanding panel (FP) extends partially beneath the roof (R). In reference to claim 12, LAHAIE does not detail the material of his panel. However, ROBBINS teaches that it is known in the art to form the display panel (18) from a translucent material (column 3, lines 63-65). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to provide the display panel of LAHAIE with the translucent panels of ROBBINS in order to provide the assembly with more light thereby making the advertisement easier to see and read. Regarding claim 14, LAHAIE does not teach the use of a bench. ROBBINS teaches that it is known in the art to provide a shelter with a bench (24). In reference to claim 15, the advertisements of ROBBINS are located within the panel (column 4, lines 5-15). Further regarding claim 34, the freestanding panel (FP) includes a frame (F), and the walls (W-1,W-2) partially surround a spatial area (SA) and the freestanding panel (FP) being disposed on an exterior of the walls (W-1,W-2), indirectly, partially surround the spatial area (SA). Further regarding 38, the walls (W-1.W-2) provide space (SA) between the roof (R) and the foundation (FO) to allow air to flow therethrough. In reference to claim 41, the walls structures include wall panels (W-1,W-2) and the upstanding posts (SU).

Claims 8 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Design Patent #250,836 to LAHAIE in view of US Patent#5,107,637 to ROBBINS, as applied to claim 3 above, and further in view of Design Patent #438,635 to Da COSTA. LAHAIE as modified by ROBBINS discloses the basic claimed shelter except for explicitly detailing that his upstanding supports are channel members. Although LAHAIE is silent in this regard, it appears that his support members are perhaps channel members. At any rate, Da COSTA, teaches that it is known in the art to form the upstanding supports of a shelter out of channel members wherein at least one glass panel (PA) is received therein, see figures 3,4 and 6. Hence, it would have been

obvious to one having ordinary skill in the art at the time the invention was made to form the upstanding and horizontal members of LAHAIE as modified by ROBBINS, out of the channel members of Da COSTA in order to ensure a rigid and much more sturdy shelter.

Claims 20-22 and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Design Patent #250,836 to LAHAIE in view of US Patent #5,107,637 to ROBBINS. LAHAIE discloses the basic claimed shelter except for explicitly detailing that the roof panels are solar-powered linked to circuitry and power storage components; and except for the freestanding wall having advertising thereon and an interior space with at least one light source. Regarding claim 20, ROBBINS teaches that it is known in the art to form the roof of a shelter with solar powered light sources (14a-d). In reference to claim 21, the freestanding wall of LAHAIE includes an interior space (IS) defined by two spaced panels (PA). However, ROBBINS teaches providing an interior space (IS-2) of an illuminated panel (16) with at least one light source at least partially disposed therein (32a-c). Regarding claim 22, ROBBINS teaches the use of circuitry (36,42,43,46) and power storage (40) components; wherein the circuitry (36,38,42,43,46) and storage components (40) are mounted within the interior space (IS) of the illuminated panel (16), column 4, lines 60-63. In reference to claim 27, ROBBINS also teaches that it is known in the art to provide the panel of a shelter (10) with a panel (18) that displays advertising material therein, column 2, lines 66-69. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shelter of LAHAIE with the advertising illuminated panel and

solar-powered roof of ROBBINS in order to promote businesses and materials in the industry while also providing a person seeking shelter therein with a form of entertainment of reading and to provide the shelter with a high level of visibility during day and evening ours without the expense of placing an maintaining electrical wiring thereto. Being able to read an advertisement while waiting for the bus, if the shelter is used at a bus stop, would appear to lessen your wait time because your mind will be preoccupied. Also, advertisements will give businesses another way letting the public know what services hey may have to offer. Further, digging the ground and laying underground cabling in order to provide a structure with electricity or lighting can be very expensive. Solar panels are another yet less expensive way of providing a structure with lighting. Solar panels are less expensive overall due to the fact that there is less manpower required in assembling whereas underground cabling required construction workers to dig the ground, electricians to lay and install the cables, maintenance person to keep up the cabling.

Allowable Subject Matter

Claims 23 and 28-33 are allowed.

Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot-in-part view of the new ground(s) of rejection.

In response to applicant's argument that the reference to DaCOSTA fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the supports partially surrounding the spatial area) are not recited in the rejected claim(s). In traverse of the argument submitted by the applicant on page 10 on 07/10/06, claim 16 does not require that the supports partially surround the spatial area. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

With regards to applicant's argument to LAHAIE, the examiner's position has been modified accordingly, see the rejections above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yvonne M. Horton
Art Unit 3635
09/20/06